

**CAAAC MEETING NOTES 3/06/12**  
**Metcalf Building, Room 111, 1:00 p.m.**

Compiled by Oline Barta

**ATTENDEES:** Dexter Busby, *Montana Refining Co*, Jeff Chaffee and Hal Robbins, *Bison Engineering*; Mitchell Leu, *Plum Creek*, Greg Gannon and John Goetz, *Holcim*; Greg Brown, *CHS, Inc.*, Joe Lierow, *ExxonMobil*, Jeff Briggs, *Ash Grove Cement*. Go-To-Meetings attendees were: Abbie Krebsbach and Jon Madison, *MDU*, Thomas Dzomba, *USFS*; Clark Snyder, *Riverstone Health*; Gordon Criswell, *PPL*, Randall Richert and Lewis Schoenberger, *ConocoPhillips*; Terry Hart, *Colorado Energy*, Mark Stermitz, *Crowley Fleck PLLP*, Jacki Malone, *Aquionix, Inc.*, Ron Watson, *Devon Energy*, Chad Powell, *LT Environmental*, Kaleena Miller, *Butte Silver Bow Energy Corps* and Dave Olson, *Fidelity Exploration & Products*. DEQ attendees were: Bob Habeck, Dan Walsh, Vickie Walsh, Dave Klemp, Chuck Homer, Deb Wolfe, Dave Aguirre, Annette Williams, Judy Hanson, Tom Livers, Stephen Coe, Becky Frankforter, Bonnie Rouse, Whitney Walsh, and Oline Barta.

**1. WELCOME AND INTRODUCTIONS:** Bob Habeck welcomed the attendees and asked those in the room and the phone participants to identify themselves. He announced that this was the 20<sup>th</sup> anniversary of CAAAC. He said that CAAAC represented 12 different interested party groups, including industry, EPA, FLMS, the public, military, state and county government, small business, consultants and local health departments. He said that today's Go-To-Meeting attendees represented five different groups. This diversity, he said, helped produce a good interaction that moved the CAAAC process forward over the years. Bob said that DEQ was listening and building a rapport with these interested parties that was very valuable in working toward consensus on issues.

**II. BUREAU RULEMAKINGS:**

- **Ozone/PM<sub>2.5</sub> Rule Changes.** Bob turned the meeting over to Vickie Walsh who introduced permittee Stephen Coe to talk about the ozone rule change. He said that DEQ was proposing rule changes in response to an EPA finding that Montana's PSD rules were inadequate because the rules didn't include NO<sub>x</sub> as a precursor to the formation of ozone. Stephen said rule changes will include a definition of NO<sub>x</sub> as the sum of NO and NO<sub>2</sub> and will include NO<sub>x</sub> when defining ozone-significance levels in addition to VOCs. He said the effect of this change would be that a PSD analysis would be required for ozone in addition to NO<sub>x</sub> when a facility has a greater than 40 tpy increase in NO<sub>x</sub>. Stephen noted that DEQ is also proposing rule changes to the recently updated PM<sub>2.5</sub> rules to address a mistaken reference to NO<sub>2</sub> that should have been NO<sub>x</sub>.

Dexter Busby asked if applicants for PSD permits would have to include ozone in their NO<sub>x</sub> evaluations and how this could be accomplished since ppm for NO<sub>x</sub> did not correlate with a ppm for ozone. Vickie Walsh said that if a facility triggered significance for NO<sub>x</sub>, then the analysis would have to include ozone. She said an analysis for ozone would have to be drafted but thought that could be done consistent with existing practice. Chuck Homer added that BACT for ozone would be similar to BACT for other pollutants. Others raised concerns about the unknowns and uncertainties of ozone analysis; whether VOCs would have to be considered as well and how the validity of PSD analysis might be affected. Bob Habeck offered to return to this discussion as the rulemaking progressed. Asked about the rule time frame, Deb Wolfe replied that a September BER adoption is anticipated.

- **IBR:** Deb Wolfe reported that the Incorporation by Reference (IBR) rule to incorporate changes to the 2010 version Code of Federal Regulations in state law has been started. She said the staff time restraints had delayed this annual rule change. Deb noted that changes in CFRs are a slow, lengthy process. Joe Lierow asked why a simple general acceptance of the current rules couldn't be done. Deb replied that following the Montana Administrative Procedures Act requires that the state give notice of specific changes in the rules as they occur.

- **Fee Rules:** Deb stated that ARMB was not planning to do a fee rule this year. Dave Klemp spoke about the fee rule. He said ARMB's goal of no fee increase has been successful for the 3<sup>rd</sup> year now because of significant efforts in strategic planning, reductions in systems redundancy and increases in process efficiency. He noted the importance of the contracted "Guidon" process that streamlined the permitting process and ARMB's efforts to apply those same kaizen principles to increase efficiency and reduce waste in other areas of the Bureau. He mentioned the online emissions inventory as another big step in efficiency. Dave noted a considerable increase in air quality regulations and added that while ARMB has been spending down any savings, continually postponing a rate increase may result in a significant increase when the need to re-consider fees finally occurs. Dave noted decreases in fee-generating emissions and said that decreases may continue for a variety of reasons. Dave said he wanted to engage the CAAAC group again to examine the current fee and fee structure to consider options to avoid unpopular fee increases down the road.

Joe Lierow asked how the emissions looked this year. Chuck Homer replied there was a 5-10% decrease this year. Dave noted that over the years emissions have gone from over 100,000 tons of chargeable emissions to 65,000 tons and ARMB does not want to be in the awkward situation of charging more per ton as emissions go down. Chuck Homer thought that the CAAAC work group had created a good framework for examining fee structure and considering fee options. Bob Habeck told the group that anyone who wanted to be a part of the fee structure group should contact Deb Wolfe.

### **III. STANDARDS UPDATE:** Deb Wolfe updated the group on several NAAQS standards

- **Lead (Pb)** - She said EPA had made final designations in November 2011 and all Montana counties are designated unclassifiable for the 2008 NAAQS. She talked about EPA monitoring requirements for Pb attainment areas and EPA's directive to monitor when a state has sources emitting 5 tpy actual emissions. Montana's minor source permit rules include a lead emissions threshold of .6 PTE.

- **Nitrogen Dioxide (NO<sub>2</sub>)** - Deb said that in January 2012 EPA designated all areas of the nation as unclassifiable. Hal Robbins asked if this was a county by county classification. Deb thought so.

- **PM<sub>2.5</sub>/PM<sub>10</sub>** – Deb said that in the fall of 2011 EPA decided to leave the PM10 NAAQS standard where they were. EPA is expecting to make further revisions this summer.

- **Sulphur Dioxide (SO<sub>2</sub>)** - Deb said that EPA would make its final designations this summer for SO<sub>2</sub>. She mentioned two unrelated lawsuits, one where the 9<sup>th</sup> circuit court ruled against Montana Sulphur and Chemical involving the Billings area FIP and another involving several states and environmental organizations challenging EPA's new method of requiring both modeling and monitoring for designations. She said ARMB kept close watch on these situations for anything that may affect permitting rules. Questions arose concerning EPA's designation deadline. Hal Robbins pointed out that some EPA designation dates had already passed.

#### IV. STATE IMPLEMENTATION PLAN ACTIONS:

- Open Burning Revisions to MT Visibility Plan/Regional Haze Visibility Program

Bob Habeck talked about the change in which he had been involved regarding the MT Visibility Plan. He had argued that the open burning BACT rule protected not only human health but reduced visibility by reducing smoke. This SIP revision has been out for public comment. He said the Department did receive one comment which is posted on the DEQ website. He said ARMB considered and responded to the comment but sent the Visibility Plan to EPA as originally proposed.

Dave Klemp acknowledged that this change to the Visibility SIP had turned into a much larger issue than DEQ had originally intended, going back to 2006 when ARMB gave the Regional Haze Program back to EPA. He noted that a lot of the current discussion focuses on the BART component of the Regional Haze Program. He has little information about EPA's BART, but believes EPA's perceptions and assumptions about BART are in flux. He also said EPA is compelled by a consent decree to propose a decision by March 20, 2012. He added EPA intended to hold hearings in Billings and Helena after its proposal is published. He said DEQ has not asked to take back the Regional Haze Program. Dave said he hopes EPA's proposal reflects environmental benefits and commensurate expense - consistent with BACT principles. Dave said EPA has been doing a decent job, judging from decisions made for other states. Asked if (Reasonable Further Progress) RFP would be included in the March 20<sup>th</sup> proposal, Dave said he believes RFP is a priority for EPA and likely would be included in a proposal. Asked about the time frame for these changes, Dave thought a final decision under the consent decree was due in mid-August and a public hearing could be expected in mid-April. Hal Robbins commented that it was a short time frame.

Abbie Krebsbach asked if in his communications with EPA, Dave knew what the controls might be. Dave replied that he believes that EPA is letting the "analysis drive the decision." EPA will, in large part, use the cost and feasibility information provided by facilities to inform decisions about controls that affect visibility.

- Oil & Gas Registration Rule – Deb Wolfe said ARMB was still waiting for EPA to act on the Oil and Gas Registration Rule so she did not have anything new to report. She said the rules were submitted for inclusion into the SIP with a demonstration that they would not to interfere with ARMB's current SIP.
- DeMinimis Rule – Deb announced that the DeMinimis Rule has been approved by EPA.
- Potential EPA Actions:

Dave Klemp said the DeMinimis Rule represented a lot of DEQ and CAAAC effort, starting before EPA began working through the large backlog of SIP submittals. He said the Department has worked to improve and enhance its relationship with Region 8 to try to avoid future backlogs.

Dave said that EPA partially approved and partially disapproved the ozone rule in July 2011. He noted EPA thought DEQ could expect a notice of inadequacy sometime in March involving Section 128 of the CAA regarding the membership of boards and possible conflicts of interest. Any EPA action would start a two-year time period for DEQ to respond. Asked if this would affect the BER, Dave said yes, but it would be limited to federal programs such as PSD/NSR types of rules.

## **V. PROGRAM UPDATES**

- **Air Monitoring Section** – Bob Habeck told the group that ARMB has wanted to have more monitors in eastern Montana to fill in gaps and establish background data. He said the Department has been working with BLM to put a sampler near Malta and one near Lewistown. BLM provided grant money in return for data they intend to use in EIS drafting for BLM oil and gas leases. Bob also said EPA grant money is being used to update the network and change from analog to digital. This will help the current problem of overextending staff and capacity, helping to stabilize capacity and work demand by enabling diagnostics to be done from Helena and by reducing the need for long-distance trips to monitoring sites.
- **Fiscal Specialist** – Becky Frankforter reported that she has been involved in the emission inventory project and will be involved in the budget and fee calculation. She noted she has been with ARMB for two years and has not been involved yet with a fee rule action.
- **Data Management** – Annette Williams said she is working with Information Technology Services to fix the online emission inventory system problems and she is also working with Financial Services to streamline the billing process. She welcomes feedback.
- **Permitting, Compliance and Registration Program** – Chuck Homer brought up a problem with compliance of compressor stations. He said part of problem has to do with the limits and whether they are appropriately done and enforced; the other part of the problem has to do with the testing and demonstration. He said what ARMB found significant issues exist with compressor stations' abilities to show compliance. While this problem deals specifically with compressor stations, he said the issue has a broader implication. Chuck said ARMB wants to create a subgroup to go over these issues with representatives of the regulated community. The subgroup would examine the permitted emission limits and consider whether the facilities are, indeed, operating correctly. He said source testing is meant to be representative of normal operating conditions. Some questions might include appropriate times to tune engines, what constitutes normal maintenance, and whether testing could be stopped after a first failed run. Chuck asked members interested in this subgroup to contact ARMB.

Joe Lierow asked what was expected to come out of this subgroup. Chuck replied that DEQ would be making decisions about what is BACT for that industry and what is appropriate maintenance for compressor stations. He hoped the group discussion would yield information for guidance about the consequences of choices, e.g. what happens when a test is stopped? Mitchell Leu asked if this guidance would just apply to compressor stations. Chuck replied that at this point in time it would.

- **Permitting Section** – In the interests of time, Vickie Walsh offered to visit with those who had permitting questions after the meeting.
- **Compliance Section** – Dan Walsh said his group was working on wrapping up the emission inventories. They are also reviewing the 2011 annual reports, particularly for Title V sources.
- **Registration Section** – Dave Aguirre said his section was also dealing with emission inventories. He informed the group that EPA is expected to act on a proposed NSPS for oil and gas facilities proposed last August. According to consent decree, EPA has until April 3, 2012 to act on the rules. Dave also noted that an article in the newspaper about oil and gas development in eastern Montana mentioned several companies not familiar to ARMB. He asked anyone who had contact with them to advise them to contact his office to avoid compliance issues.

## **VII. ADDITIONAL BUSINESS**

- Open Forum - Dexter Busby asked that information about the new compliance subgroup be sent to him or Dave Galt for them to inform interested parties. Chuck Homer agreed to do that. Bob Habeck reminded interested CAAAC members to contact ARMB concerning either of the contemplated subgroups: the compressor station compliance group and the fee structure review group.

- Next meeting – Bob thought that the next meeting of CAAAC would be in May or early June followed by one in October or November in preparation for the next legislative session. He invited anyone who wanted an earlier meeting to contact the Department.